

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on January 22, 2001 at 3:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Edward Butcher (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Alvin Ellis Jr. (R)
Sen. Sam Kitzenberg (R)
Sen. Don Ryan (D)
Sen. Debbie Shea (D)
Sen. Mike Sprague (R)

Members Excused: Sen. John Cobb (R)
Sen. Mignon Waterman (D)

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Eddy McClure, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 65, 1/11/2001; SB 218,
1/18/2001; SB 260, 1/18/2001
Executive Action:

HEARING ON SB 65

Sponsor: SEN. ALVIN ELLIS, SD 12, Red Lodge

Proponents: **Lance Melton, Montana School Boards Association**
 SEN. DUANE GRIMES, SD 20, Clancy
 Dave Puyear, Montana Rural Education Association
 Kip Smith, Self, Jefferson County
 Susan Schmitt, Self, Montana City
 Bill Spires, Self, Jefferson County
 Madalyn Quinlan, Office of Public Instruction
 Loran Frazier, School Administrators of Montana
 Darrin Grenfeld, Self
 Julie Busch, Lamotte School, Gallatin County
 Rachel Vielleox, County Superintendent, Missoula

Opponents: **Rob Collins, Self, Jefferson County**

Opening Statement by Sponsor:

SEN. ALVIN ELLIS, SD 12, Red Lodge, presented SB 65. He summarized the background for this legislation. He cited the present law when a child crosses district lines to attend an out of district school, then the school district of residence or the parent pays tuition, with the exclusion of a child that crosses a county or state boundary. In that case the state has been responsible for the cost.

SEN. ELLIS added that this bill would be a compromise that would address the unfairness of the issue as well as the legality of the state's practice of paying tuition to students that cross county lines. Since the Constitution requires the state to distribute it's share of cost equitably this bill would eliminate the legal issue of unconstitutionality.

SEN. ELLIS called attention to the fiscal note and the amendments in the committee packets. He remarked that this bill, with the amendments, will have a positive fiscal impact. He maintained that one of the weaknesses in the bill occurs when the legislation allows tuition payments to rise above the base funding level.

This measure will eliminate state payment of tuition for children who cross county lines. Tuition would now be paid under different uniform circumstances regardless of the line the child crosses thus requiring the parent or district to pay tuition.

SEN. ELLIS reiterated that this bill would entice schools to participate with lower tuition levels. The tuition rate would become uniform across the state.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 15}

Proponents' Testimony:

Lance Melton, Montana School Boards Association, stood in support of SB 65 and submitted written testimony, **EXHIBIT (eds17a01)**.

SEN. DUANE GRIMES, SD 20, Clancy, explained the history of SB 65. He summarized that many of the issues were quite complex due to the lack of knowledge that was needed to get to the core of the issue and understand where compromises could be made. He explained that The Education Forum, which represents a diversity of interests, took over. They looked at the bill with two issues in mind. One involved more choice between the public school system and the other was in regard to trying to solve the constitutional problem concerning students crossing district lines. This bill would allow school districts to provide education to those students, across county lines, establish a minimum that those parents would have to pay and also give an incentive to the receiving school district to waive the tuition without violating other equalities.

Dave Puyear, Montana Rural Education Association, endorsed SB 65, testifying that his association had worked on the interim committee. He highlighted several issues. He declared this to be a measure that had a wide variety of groups working on this project. He purported that SB 65 would be a compromise that would save the state and it would have a positive fiscal impact on the state.

Skip Smith, speaking for himself, rose in support of SB 65. He thanked the committee for crafting a bill that he believes effectively addresses the balance between school choice, parental responsibility and local control.

Susan Schmitt, Montana City, speaking for herself, begrudgingly spoke in support of SB 65. She suggested that the bill be modified when dealing with tuition. She suggested that the tuition be based upon the taxable value of a home owner's property multiplied by the high school and/or elementary mill level in the school district of choice. She felt that tuition is just another tax adding to the tax burden already being shouldered by the property owner.

{Tape : 1; Side : A; Approx. Time Counter : 15 - 32}

She stated that the rest of the bill seemed fair and repeated that the change would benefit parents.

Bill Spires, representing himself, came before the committee as a reluctant proponent of SB 65. He encouraged the legislature to

include parents earlier in the process since the bill is so complicated. He echoed previous testimony of this being a compromise bill and encouraged the committee to take into consideration the testimony of **Susan Schmitt** regarding a fairer way to balance the tuition rate. **Mr. Spires** referred to provisions in existing law that are reflected in Section 3, of the bill. He encouraged the committee to look into the future and consider the social impact this bill would have upon communities.

Madalyn Quinlan, Office of Public Instruction, endorsed SB 65. While indicating the positive aspect of the bill which indicates that the entity that places a student, pays for the student. She explained that when the state makes a placement then the state pays the tuition. When the district would make a placement then the district is responsible and when parents choose the placement then the parents pay the tuition. **Ms. Quinlan** reported that tuition rates would be set for the over base portion of the budget, cutting tuition in half making it more affordable for those paying the tuition.

She voiced her concerns regarding the definitions of a geographic condition. The bill provides that the County Transportation Committee determine when a geographic condition exists and **Ms. Quinlan** expressed her concern regarding the delegation of this decision to the County Transportation Committee. She also requested that the committee try to tighten this down by defining a geographic condition.

Ms. Quinlan stated that there would be a technical amendment offered concerning page 9 line 22.

Loran Frazier, School Administrators of Montana, indicated this bill would be a good compromise. It would give the local school boards the opportunity to decide if they want to charge tuition. For the record, Mr. Frazier stated that they support the gray bill (Montana School Boards Association's analysis).

Darrin Grenfeld, Montana City, representing himself, spoke in support of SB 65.

Julie Busch, Supervising Teacher of Lamott School, east of Bozeman, avowed that she supported SB 65 but with several concerns. She stated that the mandatory tuition statute is affecting her school. The school is a feeder school to the Bozeman high school. Due to a land transfer dispute, her district is responsible for paying tuition for students that have never attended the school. Section 20-5-321, Paragraph C states that Bozeman would have to mandatorily accept those students

because they have a high school sibling. She encouraged the committee to think of the repercussions it would have for small schools.

Rachel Vielleox, Missoula County Superintendent of Schools, remarked that she served on the Education Forum Committee and stated that the bill, as amended, is a fair representation of what the committee approved. She encouraged the committee to continue to include the county superintendents in the tuition process.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 20}

Opponents' Testimony:

Rob Collins, spoke as a resident of Jefferson County, testified against SB 65. **Mr. Collins** stated it is unfair to parents and children. He felt is a compromise on the backs of the parents who pay twice, through taxes and tuition. He questioned why he should pay taxes to Jefferson County when his children do not attend school in that county. He felt that this bill eliminates school choice for everyone but the very rich.

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. MIGNON WATERMAN mentioned that this bill would allow some districts to waive tuition for some but not for all. She stated that this has always been an issue and asked **Mr. Melton** to walk through the legality in meeting the equity test when waiving tuition for some and not for all. **Mr. Melton** responded that there are different issues involving equity. The issue has to do with a constitutional provision that specifically says the state's share of money must be distributed equitably. The waiver of tuition is local funding and there is no state constitutional provision that talks about equitable waiving of tuition at a local level.

SEN. ED BUTCHER inquired of **Mr. Collins** the difference in taxes if he was living in the Helena District versus where he is living now. **Mr. Collins** stated that he lived in a rural area. **SEN. BUTCHER** suggested that **Mr. Collins** had made a choice when he moved into another county, knowing that this dilemma would occur. **Mr. Collins** insisted that he was not aware of a possible problem since the mandatory waiver was in effect, at that time.

SEN. BUTCHER questioned whether **Mr. Collins** would have the option of petitioning his land into the Helena district. **Mr. Collins** acknowledged this would be a solution but would take time.

{Tape : 1; Side : B; Approx. Time Counter : 20 - 32}

SEN. JACK WELLS asked the sponsor how this bill supports school choice. **SEN. ELLIS** stated that it does support school choice. Parents may still be required to pay tuition but this has always been the case. The bill reforms the way it works.

SEN. WELLS asked **Julie Busch** to clarify the paragraph she referred to in her testimony. Ms. Busch responded that it was under Section 20-5-321, Paragraph C. She stated that it is stated on page 5 of the rough draft.

SEN. JIM ELLIOT, asked the sponsor to comment on the issue of geographical hardship. **SEN. ELLIS** suggested this should be worked on in committee since the Supreme Court stated that we have allowed the county superintendents legislative discretion in determining the definition of geographical hardship.

SEN. ELLIOT asked **Mr. Melton** to clarify whether school boundaries are the same as county boundaries or if they can overlap. **Mr. Melton** acknowledged there are cases of overlap and asked if the question could be redirected to **Madalyn Quinlan**. **Ms. Quinlan** stated that there are 66 of 450 school districts that have territory in at least two counties.

CHAIRMAN GLASER requested that **Susan Schmitt** recap her feelings, as a parent, concerning this bill. **Mrs. Schmitt** summarized that she was informed at the time they built their home that their children would be able to attend Helena High School. She repeated that she has paid her taxes and questioned why she should have to pay more.

SEN. BUTCHER remarked that it would seem that **Ms. Schmitt** would like to have the elementary children in a small school yet want the high school students to go to Helena High School and inquired into why she was not petitioning to transfer that land into the Helena High School District. **Mrs. Schmitt** responded that her taxes would not be that much higher if she lived in Lewis and Clark County. She also stated that petitioning has recently been declared unconstitutional so would not be an option at this time.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 20}

Closing by Sponsor:

SEN. ELLIS closed on SB 65. He summarized that this is a good piece of legislation that enhances choice. He repeated that the bill is a compromise and summarized the positive aspects of the bill.

{Tape : 2; Side : A; Approx. Time Counter : 20 - 23}

CHAIRMAN GLASER announced his intention to put SB 65 into sub-committee. He added that the sub-committee would consist of **SEN. WELLS, SEN. DON RYAN,** and **SEN. ELLIS.** **SEN. WELLS** was appointed chairman.

HEARING ON SB 218

Sponsor: **SEN. DON RYAN, SD 22, Great Falls**

Proponents: **Loran Frazier, School Administrators of Montana**
Linda Brannon, Montana Association of Business
Officials
Lance Melton, Montana School Boards Association
Dave Puyear, Montana Rural Educators Association
Eric Feaver, Montana Education Association/Montana
Federation of Teachers
Donna Maddox, Flathead County Superintendent of
Schools

Opponents: None

Opening Statement by Sponsor:

SEN. DON RYAN, SD 22, Great Falls, opened on SB 218. SB 218 would authorize the trustees of a school district, after determining that the district's tuition fund is inactive and will no longer be used, to close the fund by transferring any cash or fund balance into the district's miscellaneous programs fund.

SEN. RYAN read a message from Jim Glantz, Kalispell, and asked that it be entered into the record, **EXHIBIT (eds17a02).**

Proponents' Testimony:

Loran Frazier, School Administrators of Montana, supported SB 218 stating that a school district would be penalized, under current law, if the money was spent for anything other than tuition.

Linda Brannon representing the Montana Association of School Business Officials, articulated support for SB 218. She apprized

the committee that districts could take care of well needed funding without going through the general funds.

Lance Melton, Montana School Boards Association, presented support for SB 218. He reiterated that the bill represents a correction on one of many laws that inhibits efficient spending.

Dave Puyear, Montana Rural Education Association, urged support of SB 218. He stated that the bill would provide flexibility for schools.

Eric Feaver, Montana Education Association/Montana Federation of Teachers, rose in support of SB 218.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. ALVIN ELLIS requested that **Linda Brannon** explain the procedure that would be involved in the transference of tuition funds. He wondered if state responsibility would be lower if the transfer of funds would allow the taxes to be lowered. **Ms. Brannon's** answer was affirmative.

SEN. ELLIS theorized that the if schools would receive this funding they would not have to run a mill levy the next year. **Ms. Brannon** asked that the question be deferred to **Kathy Fabiano of the Office of Public Instruction**. **Ms. Fabiano** responded that if the tuition fund balance was transferred into the general fund, as current law provides, the base mills would decline as would the district's guaranteed tax base. The base mills could be raised the following year without a vote.

SEN. JON ELLINGSON requested an explanation concerning the creation of the tuition fund.

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Kathy Fabiano explained the tuition fund was created by order of the board of trustees. If they have a student attending a school out of district and being charged the tuition for that student they would set up the tuition fund to pay that tuition. It is funded with a local property tax levy which is a permissive levy. She also stated that there is no cap on this fund.

SEN. ELLINGSON referred to the fiscal note, asking for clarification concerning the 127 school districts with fund

balances in their tuition funds. **Ms. Fabiano** indicated none of the students were going out of a district that required a district tuition obligation, or the students were attending a district that had waived tuition.

SEN. ELLIS wondered how money is put into the tuition fund. **Kathy Fabiano** reported the district would budget for it's tuition obligations for the ensuing year.

SEN. ELLIS inquired whether those were general fund monies or a separate fund. **Ms. Fabiano** stated it would be a separate fund, separated from the general fund and funded solely with local property tax levies.

SEN. ELLIS questioned whether it was a permissive fund. **Ms. Fabiano** answered that it would be a permissive levy with no cap. **SEN. ELLIS** questioned the responsibility of the miscellaneous fund. **Ms. Fabiano** described the miscellaneous fund as a fund that receives the district's federal grant, state grants, and donated funds. She stated there are no levied monies in the fund. **SEN. ELLIS** wondered about the use of the monies in the miscellaneous fund. **Ms. Fabiano** believed the board could make the decision to use the money as it deems necessary.

{Tape : 2; Side : B; Approx. Time Counter : 0 - 5}

Closing by Sponsor:

SEN. DON RYAN closed on SB 218. He stated that the local trustees were looking out for the local taxpayers dollars. He recounted the fact that money is given back to the state and the next year districts are asking local taxpayers to make up that money. This bill could be used to fund projects without going to a bonded levy.

{Tape : 2; Side : B; Approx. Time Counter : 5 - 7}

HEARING ON SB 260

Sponsor: **SEN. DALE MAHLUM, SD 35, Missoula**

Proponents: **Lance Melton, Montana School Boards Association**
Loran Frazier, School Administrators of Montana
Eric Feaver, Montana Education Association/Montana
Federation of Teachers

Opponents: None

Opening Statement by Sponsor:

SEN. DALE MAHLUM introduced SB 260. This bill refines SB 246 which was presented two years ago. SB 260 would create an option of setting up investment accounts. **SEN. MAHLUM** expanded on the important safeguards to insure the financial accountability to the public.

Proponents' Testimony:

Lance Melton, Montana School Boards Association, stood in strong support for SB 260. **Mr. Melton** submitted written testimony, **EXHIBIT** (eds17a03).

Loran Frazier, School Administrators of Montana, articulated that the bill gives local school districts an option to buy into this and give them a greater return for their money.

Eric Feaver, Montana Education Association/Montana Federation of Teachers, urged support of SB 260.

{Tape : 2; Side : B; Approx. Time Counter : 7 - 14}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. JOHN BOHLINGER expressed his satisfaction regarding schools earning income which would reduce taxes. He asked for clarification of investment options beyond assigning money to a savings accounts. **Mr. Melton** advised that there are financial institutions which are capable of complying with the investment laws, keeping the money in an invested status but allowing it to be on a daily rollover basis.

{Tape : 2; Side : B; Approx. Time Counter : 14 - 16}

Closing by Sponsor:

SEN. MAHLUM closed on SB 260.

{Tape : 2; Side : B; Approx. Time Counter : 16 - 18}

ADJOURNMENT

Adjournment: 5:00 P.M.

SEN. BILL GLASER, Chairman

LINDA ASHWORTH, Secretary

BG/LA

EXHIBIT (eds17a04)

EXHIBIT (eds17aad)